



Council of the  
European Union

Brussels, 8 September 2015  
(OR. fr)

10452/15  
ADD 1

PV/CONS 39  
AGRI 371  
PECHE 233

## DRAFT MINUTES

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Subject: **3402<sup>nd</sup>** meeting of the Council of the European Union  
(**AGRICULTURE AND FISHERIES**) held in Brussels on 13 July 2015

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<sup>1</sup> Deliberations on Union legislative acts (Article 16(8) of the Treaty on European Union), other deliberations open to the public and public debates (Article 8 of the Council's Rules of Procedure).

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## **LEGISLATIVE DELIBERATIONS**

*(Public deliberation in accordance with Article 16(8) of the Treaty on European Union)*

### **'A' ITEMS**

**1. Draft Regulation of the European Parliament and of the Council amending Regulation (EU) No 1343/2011 on certain provisions for fishing in the GFCM (General Fisheries Commission for the Mediterranean) Agreement area [first reading] (LA+S)**

- = Adoption
- (a) of the Council's position at first reading
  - (b) of the statement of the Council's reasons
    - 10406/15 PECHE 229 CODEC 961
    - + ADD 1
    - 8806/15 PECHE 161 CODEC 705
    - + COR 1 (pl)
    - + ADD 1
    - + ADD 1 COR 1
- approved by Coreper, Part 1, on 8.7.2015

In accordance with Article 314 of the Treaty on the Functioning of the European Union, The Council adopted its position on draft amending budget n° 3 to the general budget for 2015 by qualified majority, with the United Kingdom delegation abstaining. (Legal basis: Article 43(2) of the TFEU)

### **Commission statements**

#### **Final date for use of ROVs**

"With regards to the final date of 31/12/2015, agreed by the European Parliament and the Council for authorised use of Remotely Operated underwater Vehicles (so called "ROVs") for observation and prospection of red coral, the Commission takes note of the decision of the co-legislators to interpret the words "until 2015" in paragraph a) of recommendation GFCM/35/2011/2, as "until 31 December 2015", thus deviating substantially from the Commission's proposal to consider only the time period before 2015, until 31 December 2014.

Having already stressed that, by their nature, derogations can only be temporary, the Commission recalls that also the FAO Legal Service had expressed the view that only the time limit before 2015 should be considered. In the light of this, the Commission will assess if appropriate initiatives need to be taken in order to clarify the Union's position on the issue of ROVs within the GFCM."

### Transitional national measures

"The Commission takes note of the decision of the European Parliament and the Council to allow Member States to keep existing derogations related to red coral harvesting without any time limit, and to provide for new derogations to be granted during a transitional period again without clear cut-off date.

The Commission considers that, by their nature, derogations and/or transitional measures can only be temporary and that the unlimited exceptional regimes agreed between the co-legislators may put the Union in a position where it is not able to ensure that its international obligations towards the GFCM are fully respected.

In the event that the above mentioned risks should materialize, the Commission will submit proposals for appropriate measures in accordance with the relevant provisions of the Treaty.

In any event, the Commission emphasises that any decision in this case will not prejudice the Commission position in relation to other rules on derogations and/or transitional regimes."

## **2. Draft Directive of the European Parliament and of the Council amending Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Directive 2009/28/EC on the promotion of the use of energy from renewable sources [second reading] (LA+S)**

- Approval of the European Parliament's amendment  
10390/15 CODEC 957 CLIMA 76 ENER 268 ENV 442 ENT 125 TRANS 225  
AGRI 364 POLGEN 110  
+ COR 1  
+ COR 2  
+ ADD 1 REV 2  
PE-CONS 28/15 CLIMA 48 ENER 135 ENV 260 ENT 75 TRANS 153  
AGRI 246 POLGEN 65 CODEC 648  
approved by Coreper, Part 1, on 8.7.2015

The Council approved the European Parliament's amendment to the Council's position at first reading, with the Czech delegation abstaining. The Directive is deemed to have been adopted in the form of the position of the Council at first reading, thus amended, in accordance with Article 294(8)(a) of the Treaty on the Functioning of the European Union. (Legal basis: Articles 192(1) and 114, in conjunction with Articles 1(3) to 1(13), and Articles 2(5) to 2(7) of the TFEU)

### **Statement of the United Kingdom and the Netherlands**

"The UK and the Netherlands Governments welcome the efforts of the previous Latvian presidency in reaching a compromise between the institutions that allowed for the conclusion of the ILUC negotiations. However, we regret that measures to promote the most sustainable advanced biofuels in a cost effective manner, through double counting their contribution to the overall RED targets, were not included in the final compromise."

#### **3. Directive of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (codification) [first reading](LA)**

= Adoption of the legislative act  
10381/1/15 REV 1 CODEC 952 CODIF 80 ECO 81 INST 225 MI 424  
PE-CONS 8/15 CODIF 16 ECO 15 INST 34 MI 74 CODEC 172  
approved by Coreper, Part 2, on 9.7.2015

The Council approved its position at first reading, in accordance with Article 294(5) of the Treaty on the Functioning of the European Union. (Legal basis: Articles 114, 337 and 43 of the TFEU)

#### **4. Revision of the European Trade Mark System [first reading] (LA+S)**

- c) Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 207/2009 on the Community trade mark**
- d) Proposal for a Directive of the European Parliament and of the Council to approximate the laws of the Member States relating to trade marks (recast)**

= Political agreement  
9957/15 PI 40 CODEC 885  
+ ADD 1  
+ ADD 2  
approved by Coreper, Part 1, on 24.6.2015

The Council reached political agreement on the above two proposals, and took note of the following statements made by the Commission and the Estonian and Netherlands delegations.

### **Commission statement**

"The Commission takes note of the agreement reached between the European Parliament and the Council on the reform of the EU trade mark system. In view of the added value of this reform for the users of the EU trade mark system, the Commission has decided to support it, as in balance, the overall agreement significantly improves the existing situation in particular in terms of substantive trade mark law. This is despite its concerns on certain budgetary aspects of the agreement.

The Commission regrets in particular that the co-legislators have been unable to agree on one of the key elements of its proposal concerning the budget of the OHIM: the automatic review of the level of the fees in case of significant recurrent surplus and the automatic transfer of such surplus to the EU budget. Indeed, while the level of the fees will be fixed in the EU trade mark regulation, the transfer of "substantive" surplus will remain submitted to the discretion of the Budget Committee of the OHIM (vote at 2/3 majority). The Commission recalls that such transfer would have taken place only after all types of use of the resources available as provided by the basic act have been satisfied, including the offsetting of central industrial property offices and other concerned authorities of Member States for the costs that they incur in ensuring the smooth functioning of the European Union Trade Mark System.

The Commission will continue to review the level of the fees charged by the OHIM in view of proposing to adjust them as closely as possible to the costs of the services provided to the industry and of preventing the accumulation of significant surpluses within the OHIM, in line with the rules applicable to all other agencies which have been agreed with the European Parliament and the Council.

The Commission stresses that fully self-financed agencies, such as the OHIM, as well as Institutions and bodies with budgetary autonomy financed outside the EU budget, should support the full cost of their staff, including the costs for the schooling of the children of their staff in the European schools. In line with the principle of administrative autonomy, the Commission will pursue all appropriate means to ensure that these agencies, Institutions and bodies effectively bear such costs or that they refund the EU budget of these costs.

The Commission stresses that, as regards the procedure of pre-selection and appointment of the Executive Director, any upcoming reform of OHIM should fully align with the principles of the Common Approach."

### **Statement by the Estonian delegation**

"Estonia wishes to underline that it fully supports the trade mark reform and will not therefore oppose the adoption of the regulation and the directive.

However, Estonia wishes to express its concerns on the proposed administrative procedure for the revocation or declaration of invalidity of a trade mark. Estonia regrets that a satisfactory compromise was not found during the negotiations. We remain of the opinion that the proposed administrative procedure will not be efficient and will create additional administrative burden. Furthermore, it will completely change our current system, which has proved to be cost-efficient and effective, posing therefore systematic problems for our legal system."

### **Statement by the Netherlands delegation**

"Although the Netherlands welcomes many elements of the proposed trademark reform package, which will make the new system more accessible, efficient and less costly, it wishes to express – again – our grave concerns regarding the proposed provisions on goods in transit (Article 10 paragraph 5 of the Directive and Article 9 paragraph 5 of the Regulation as well as their corresponding recitals).

These provisions will introduce the possibility to detain goods on account of possible infringement of a national or EU-trademark, where those goods are merely in transit through EU-territory.

The Netherlands believes that the proposed measure will put a disproportionate and unnecessary burden on holders of goods and an impediment to legitimate international trade, including for legitimate generic medicines. The Netherlands has had a negative experience in 2008 with detaining medicines in transit and does not want that to happen again.

Although the Netherlands supports the battle against counterfeiting as this undermines trade, IP-rights etc., the proposed measure for detaining goods in transit is unacceptable for The Netherlands. Against this background the Netherlands will abstain from voting on the trademark reform package."



## 'B' ITEMS

### NON-LEGISLATIVE ACTIVITIES

#### **4. Work programme of the Presidency**

- Presentation by the Presidency  
(*Public debate in accordance with Article 8(2) of the Council's Rules of Procedure*)  
10690/15 AGRI 383 PECHE 243

The Chair presented the work programme of the Luxembourg Presidency concerning the agriculture and fisheries sector.

### AGRICULTURE

### LEGISLATIVE DELIBERATIONS

(*Public deliberation in accordance with Article 16(8) of the Treaty on European Union*)

#### **5. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1308/2013 and Regulation (EU) No 1306/2013 as regards the aid scheme for the supply of fruit and vegetables, bananas and milk in the educational establishments(first reading)**

*Interinstitutional File: 2014/0014 (COD)*

- State of play  
10620/15 AGRI 378 AGRIFIN 63 AGRIORG 46 CODEC 993

### NON-LEGISLATIVE ACTIVITIES

#### **6. Proposal for a Council Regulation amending Regulation (EU) No 1370/2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products**

- State of play  
(*Public debate in accordance with Article 8(2) of the Council's Rules of Procedure*)  
10620/15 AGRI 378 AGRIFIN 63 AGRIORG 46 CODEC 993

*Items 5 and 6:*

The Council took note of the information provided by the Commission representative and the broad support from the delegations for resumption of work on this file. The Council also took note of the Presidency's willingness to resume work on this file, including with regard to the legal basis.

## **LEGISLATIVE DELIBERATIONS**

*(Public deliberation in accordance with Article 16(8) of the Treaty on European Union)*

### **8. Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1829/2003 as regards the possibility for the Member States to restrict or prohibit the use of genetically modified food and feed on their territory (first reading)**

*Interinstitutional File: 2015/0093 (COD)*

- Presentation by the Commission
- Exchange of views

8356/15 AGRI 222 AGRILEG 95 DENLEG 67 MI 271 CONSOM 70 SAN 132  
CODEC 609

10569/15 AGRI 376 AGRILEG 143 DENLEG 91 MI 443 CONSOM 122  
SAN 206 CODEC 984

## **NON-LEGISLATIVE ACTIVITIES**

### **9. Commission communication on 'Reviewing the decision-making process on genetically modified organisms'**

- Presentation by the Commission
- Exchange of views

*(Public debate in accordance with Article 8(2) of the Council's Rules of Procedure)*

8344/15 AGRI 221 AGRILEG 96 DENLEG 68 MI 274 CONSOM 71 SAN 133  
+ ADD 1

10569/15 AGRI 376 AGRILEG 143 DENLEG 91 MI 443 CONSOM 122  
SAN 206 CODEC 984

#### *Items 8 and 9:*

The Commission presented to the Council a proposal for a Regulation allowing the Member States to restrict or prohibit the use of genetically modified food and feed on their territory, as well as the corresponding communication. The Council then held an exchange of views based on a Presidency questionnaire (10569/15). The two agenda items were dealt with together.

During the exchange of views a very large majority of delegations openly criticised the proposal, in particular because of the lack of any impact assessment, the legal uncertainty, the lack of clarity regarding its scope and a possible conflict with internal market and WTO rules.

The Council instructed its preparatory bodies to examine the technical aspects of the proposal on the basis of a new, supplementary assessment provided by the Commission concerning in particular the impact of the proposal and its compatibility with internal market and WTO rules. Following a request made by several delegations, the Council asked its Legal Service to issue an opinion.

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